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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,053	12/11/2003	James Dennis Stell	NITP:101US	9168
7590 07/05/2005			EXAMINER	
S. Peter Konzal Simpson & Simpson, PLLC 5555 Main Street Williamsville, NY 14221			HOOK, JAMES F	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/734,053	STELL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	James F. Hook	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

It should be noted that the application was filed with two claim 8's and no claims 17 and 18, as per rule 1.26 the claims have been renumbered, where the second 8 is numbered claim 9, and the remaining claims are numbered in order from 10-19. The examiner will be using these claim numbers to apply the applicable rejections below.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Barber (037). The patent to Barber discloses the recited noise reducing device comprising a housing 12 comprising an inlet and an outlet end, the inlet end and outlet end comprising at least one orifice for passing a fluid there through, including gases, the inlet end has an inlet and outlet face where backpressure is maintained upstream from the inlet orifice end, a diffusing pack material 26 disposed within the housing, the pack material maintaining contact with the outlet face of the inlet orifice, the diffusing pack can be formed of monofilament wire knitted to form a mesh, where such can be wound to thereby overlap itself which forms a plurality of folded mesh layers, where at least one stiffener in the form of a wire screen can be provided to hold the mesh together, the mesh and screen are formed of heat and oxidation resistant material such as stainless steel, where a plurality of diffusing packs can be provided in the housing thereby

Art Unit: 3754

providing for a first knitted wire mesh, a second wire screen layer proximate to the first layer, a third layer of knitted mesh, and a forth wire screen layer proximate to the outlet end and contacting such as it is formed around the end wire mesh layer which contacts the outlet end.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Barber (950). The patent to Barber discloses the recited noise reducing device comprising a housing 12 comprising an inlet and an outlet end, the inlet end and outlet end comprising at least one orifice for passing a fluid there through, including gases, the inlet end has an inlet and outlet face where backpressure is maintained upstream from the inlet orifice end, a diffusing pack material 26 disposed within the housing, the pack material maintaining contact with the outlet face of the inlet orifice, the diffusing pack can be formed of monofilament wire knitted to form a mesh, where such can be wound to thereby overlap itself which forms a plurality of folded mesh layers, where the mesh can be formed of a heat and oxidation resistant material such as stainless steel.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber (037). The patent to Barber discloses all of the recited structure with the

Art Unit: 3754

exception of disclosing the density of the mesh layers, and the diameter of the wire used. It is considered that such are merely choices of mechanical expedients where one skilled in the art would only require routine skill in the art and routine experimentation to arrive at optimum values for the materials to use to achieve the necessary noise reduction, as such is merely a choice of mechanical expedients and would provide a quieter pressurized fluid system.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber (950). The patent to Barber discloses all of the recited structure with the exception of disclosing the density of the mesh layers, and the diameter of the wire used. It is considered that such are merely choices of mechanical expedients where one skilled in the art would only require routine skill in the art and routine experimentation to arrive at optimum values for the materials to use to achieve the necessary noise reduction, as such is merely a choice of mechanical expedients and would provide a quieter pressurized fluid system.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Rohnow, Behrens, Hayner, Taylor, Frochaux, Nitz, Daniel, Gras, Grainger, Hearn, and Arkfeld disclosing state of the art noise reduction articles.

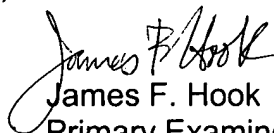
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-

Art Unit: 3754

4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James F. Hook  
Primary Examiner  
Art Unit 3754

JFH